THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.6988 of 2007

Between:

Md.Tajuddin.

.. PETITIONER

and

The Joint Collector and
Ex-official Executive Director and others.

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RESPONDENTS

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ORDER:

The petitioner questions Tender Notification No.Movement.

5(1)/2007-2008, stage-II, dated 02-03-2007, issued by the 1st respondent with the permission of the 2nd respondent, calling for the tenders for transportation of essential commodities from the Mandal Level Stock Points to different villages in the district.

It is the case of the petitioner that he is a qualified stage-II Contractor having required qualification and experience to bid for the said Tender Notification, but the said Tender Notification is issued contrary to the guidelines issued by this Court in W.P.Nos.19715 of 2005 and 19728 of 2005, dated 09-12-2005. In the said two writ petitions, the terms of Tender Notification has not at all been questioned and this Court never set aside any such Tender Notification, but the questions raised in the said writ petitions are with regard to acceptance of highest rates without making any negotiations and with regard to relevant experience and other considerations. But, in the instant case, the petitioner questions the entire Tender Notification itself on the ground that the guidelines issued in the said writ petitions were not followed.

I am of the opinion that this Court never formulated any guidelines as to what method and manner the Tender Notification has to be issued. Insofar as terms of invitation of tender are concerned, the Apex Court in ***GLOBAL ENERGY LIMITED v. M/s.ADANI EXPORTS LIMITED***[1] held that it is well settled principle that the terms of the invitation to tender are not open to judicial scrutiny and the Courts cannot whittle down the terms of the tender, as they are in the realm of contract unless they are wholly arbitrary, discriminatory or actuated by malice.

Therefore, I am of the opinion that the terms of the invitation to tender are not open to judicial scrutiny and the Courts cannot whittle down the terms of the tender, as they are in the realm of contract and in the instant case, I do not see any arbitrary, discriminatory or actuated by

malice in the terms and conditions of the said Tender Notification. However, it is for the respective tenderers to submit their tenders quoting reasonable rates for transportation of essential commodities. None of the conditions imposed in the said Tender Notification can be said that they are wholly arbitrary, discriminatory or actuated by malice.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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24-04-2007

Prv

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[1] 2005 (4) Supreme 215